

Message Text

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SUBJECT: US RESPONSE TO SYG WALDHEIM ON CUBAN PROTEST.

REF: USUN 6384, 6695, 6710, 6826 AND STATE 292699

1. AMBASSADOR MOYNIHAN HAS WRITTEN TO SYG WALDHEIM
REJECTING PROTEST MADE BY AMBASSADOR ALARCON QUESADA
(CUBA) CONCERNING DETENTION OF TWO CUBAN DIPLOMATS. QUOTE
DEAR MR. SECRETARY GENERAL:

I AM WRITING YOU WITH REGARD TO THE LETTER DATED
DECEMBER 3, 1975 ADDRESSED TO YOU BY THE PERMANENT
REPRESENTATIVE OF CUBA TO THE UNITED NATIONS CONCERN-
ING THE INCIDENT OF NOVEMBER 28, 1975 INVOLVING MR.
JOSE LUIS MENDEZ MENDEZ, THIRD SECRETARY OF MISSION, AND MR.
ROAL BERGUEZ FERRER, AND ADVISER TO THE CUBAN DELEGATION
TO THE 30TH SESSION OF THE GENERAL ASSEMBLY.
THE UNITED STATES MISSION HAS OBTAINED A COMPREHENSIVE
REPORT ON THE INCIDENT FROM THE COMMISSIONER OF
POLICE OF NASSAU COUNTY, N.Y. THE PERTINENT FACTS ARE ATTACHED.
I ENERGETICALLY REJECT THE PROTEST MADE BY THE PERMANENT
REPRESENTATIVE OF CUBA THAT THIS WAS A VIOLATION OF
INTERNATIONAL LAW AND OF THE OBLIGATIONS ASSUMED BY THE UNITED STATES
AS HOST COUNTRY. I ALSO REJECT HIS ALLEGATIONS CONCERNING
THE PROTECTION OF DIPLOMATS IN THE UNITED STATES. NEITHER
OF THE ALLEGATIONS HAS ANY BASIS IN LAW OR IN FACT.

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IT MIGHT BE NOTED THAT THE CUBAN REPRESENTATIVES

WERE IN AN AREA LITTLE FREQUENTED BY DIPLOMATS, AT THE TIME OF A BANK ROBBERY IN THE VICINITY, WITHOUT ADEQUATE PROOF OF THEIR IDENTITY, CARRYING LOADED REVOLVERS, AND WITH LARGE AMOUNTS OF MONEY ON THEIR PERSONS. UNDER SUCH CIRCUMSTANCES, IT IS HARDLY SURPRISING THAT THEY AROUSED SUSPICION. ACCORDINGLY, IT IS THE VIEW OF THE UNITED STATES GOVERNMENT THAT THE POLICE OFFICER ACTED PROPERLY AND IN ACCORDANCE WITH THE CRIMINAL PROCEDURE LAW OF THE STATE OF NEW YORK.

FURTHERMORE, THE DIPLOMATS IN QUESTION SHOULD BE STERNLY REPRIMANDED BECAUSE THEY WERE CARRYING LOADED REVOLVERS WITHOUT PERMITS IN VIOLATION OF THE LAWS OF THE STATE OF NEW YORK. THESE WEAPONS WERE NOT RETURNED BECAUSE THEY WERE CARRIED IN VIOLATION OF SECTION 400 OF THE PENAL LAW OF THE STATE OF NEW YORK. THEY WILL BE RETURNED IF PISTOL PERMITS ARE OBTAINED. OTHERWISE, THEY WILL BE RETURNED WHEN MR. MENDEZ MENDEZ AND MR. BERGUEZ FERRER LEAVE THE UNITED STATES.

I WOULD APPRECIATE YOUR CIRCULATING MY LETTER TO ALL STATES MEMBERS OF THE UNITED NATIONS AS A DOCUMENT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY.

SINCERELY YOURS,

DANEIL P. MOYNIHAN

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REPORT ON THE INCIDENT OF
NOVEMBER 28, 1975 INVOLVING TWO MEMBERS
OF THE CUBAN DELEGATION

AT ABOUT 11:50 HOURS ON NOVEMBER 28, 1975 A BANK ROBBERY OCCURRED AT THE BANKERS TRUST COMPANY, 55 NORTHERN BOULEVARD, GREAT NECK, N.Y.

THE FIRST POLICE OFFICERS WHO ARRIVED AT THE SCENE OF THE ROBBERY BROADCAST A RADIO NOTIFICATION AT 11:55 HOURS. NON-UNIFORMED NASSAU COUNTY POLICE OFFICERS ON A SEPARATE INVESTIGATION IN THE GREAT NECK AREA HEARD THE NOTIFICATION AND WENT TO THE LITTLE NECK AREA BECAUSE OF THE DIRECTION OF ESCAPE THAT WAS INDICATED. THESE OFFICERS OBSERVED TWO INDIVIDUALS STANDING AT A BUS STOP LOCATED AT NORTHERN BOULEVARD AND 248TH STREET, LITTLE NECK, AT ABOUT 12:20 HOURS. THE TWO INDIVIDUALS APPEARED TO BE SCANNING PASSING
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TRAFFIC, CAST APPARENTLY NERVOUS GLANCES AT THE POLICE OFFICERS, AND WERE ENGAGED IN RAPID CONVERSATION WITH EACH OTHER. THEY APPEARED TO FIT THE DESCRIPTION OF THE INDIVIDUALS DESCRIBED IN THE RADIO NOTIFICATION.

WHILE UNDER THE OBSERVATION OF THE POLICE OFFICERS, BOTH INDIVIDUALS BACKED AWAY FROM THE BUS STOP AND ENTERED A NEARBY RESTAURANT, ARTHUR TREACHER'S FISH AND CHIPS, LITTLE NECK, N.Y., THE ENTRANCE OF THE RESTAURANT BEING THIRTY TO

FIFTY FEET FROM THE BUS STOP.

THE PLAINCLOTHES POLICE OFFICERS PARKED THEIR VEHICLE AND ENTERED THE RESTAURANT. THEY APPROACHED THE TWO INDIVIDUALS WITH THEIR POLICE SHIELDS DISPLAYED IN THEIR HANDS, IDENTIFIED THEMSELVES AND DREW THEIR POLICE REVOLVERS. ONE OF THE TWO INDIVIDUALS, LATER IDENTIFIED AS MR. JOSE L. MENDEZ MENDEZ, ATTEMPTED TO REACH FOR HIS COAT POCKET. THE POLICE OFFICERS, FEARING FOR THEIR OWN SAFETY AND THAT OF INNOCENT BYSTANDERS, QUICKLY ORDERED HIM TO STOP THE MOVEMENT TOWARD HIS POCKET. HE WAS THEN SEARCHED, AND THE OFFICERS FOUND A FULLY-LOADED AUTOMATIC 38 CALIBER REVOLVER, WHICH THEY TOOK FROM HIM.

FOLLOWING THE DISCOVERY OF THE FIRST REVOLVER, THE SECOND INDIVIDUAL, LATER IDENTIFIED AS MR. NOEL BERGUEZ FERRER, WAS ALSO SEARCHED, AND A FULLY-LOADED CALIBER REVOLVER WAS FOUND ON HIS PERSON WHICH WAS SIMILAR TO THAT DESCRIBED IN THE NOTIFICATION OF BANK ROBBERY.

MR MENDEZ MENDEZ, WHILE BEING SEARCHED, STATED "DONT TOUCH ME-I'M A DIPLOMAT.". WHEN THE POLICE OFFICERS ASKED FOR PROOF OF DIPLOMATIC STATUS, MR. MENDEZ MENDEZ PRODUCED A TAX EXEMPTION CARD WHICH THE OFFICERS FELT DID NOT ADEQUATELY PROVE HE WAS A DIPLOMAT. THE INDIVIDUALS WERE FOUND TO BE IN POSSESSION OF A LARGE AMOUNT OF UNITED STATES CURRENCY. THE TOTAL AMOUNT WAS \$1,548.00 IN CASH. BOTH SUSPECTS WERE PLACED UNDER ARREST, GIVEN EXPLANATIONS REGARDING THEIR CONSTITUTIONAL RIGHTS AND HANDCUFFED.

THE POLICE OFFICERS DECIDED TO TAKE THE SUSPECTS TO THE BANK FOR POSSIBLE IDENTIFICATION. THEY ARRIVED AT THE BANK AT ABOUT 12:40 HOURS. IT WAS DISCOVERED THAT ONE OF THE TWENTY DOLLAR BILLS TAKEN FROM THE SUSPECTS WAS STAMPED IN INK "BANKERS TRUST COMPANY.". WHILE THE MONEY WAS CHECKED TO SEE IF IT HAD BEEN STOLEN FROM THE BANK, UNCLASSIFIED

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TWO BANK EMPLOYEES VIEWED THE SUSPECTS AND FAILED TO IDENTIFY THEM AS THE PERSONS WHO COMMITTED THE ROBBERY. THE CURRENCY COMPARISON ALSO PROVED NEGATIVE. THE SUSPECTS REFUSED TO PROVIDE FURTHER IDENTIFICATION AND DID NOT EXPLAIN WHY THEY WERE CARRYING LOADED AUTOMATIC WEAPONS. THEY WERE THEN TAKEN TO THE SIXTH PRECINCT STATION HOUSE IN MANHASSET, N.Y, THEY ARRIVED AT 13:20 HOURS. A SPANISH SPEAKING DETECTIVE WAS ASSIGNED TO INTERVIEW THE SUSPECTS. AT THIS TIME THEY GAVE THEIR NAMES AND DIPLOMATIC TITLES AND CLAIMED DIPLOMATIC IMMUNITY. THEY REFUSED TO ANSWER ANY OTHER QUESTIONS AND REQUESTED THAT THE CUBAN DELEGATION TO THE UNITED NATIONS BE CONTACTED. AT 14:30 HOURS THE POLICE CONTACTED THE UNITED STATES MISSION AND REQUESTED VERIFICATION AND THE STATUS OF MR. MENDEZ MENDEZ AND MR. BERGUEZ FERRER. THE UNITED STATES

MISSION VERIFIED THEIR STATUS AND REQUESTED THAT BOTH INDIVIDUALS BE RELEASED.

IMMEDIATELY UPON THIS NOTIFICATION, BOTH INDIVIDUALS WERE INFORMED THAT THEIR DIPLOMATIC STATUS HAD BEEN VERIFIED AND THEY WERE FREE TO LEAVE. ALL PERSONAL PROPERTY, EXCEPT FOR THE CONFISCATED WEAPONS WERE RETURNED TO THEM. THE SUPERVISING OFFICER OF THE SIXTH SQUAD APOLOGIZED TO THEM. THEY WERE OFFERED TRANSPORTATION BY MEMBERS OF THE POLICE DEPARTMENT TO THE POINT OF APPREHENSION IN NEW YORK CITY. THIS OFFER WAS DECLINED BY MR. MENDEZ MENDEZ, WHO STATED HE WISHED TO REMAIN UNTIL A REPRESENTATIVE OF THE CUBAN DELEGATION ARRIVED. MR MENDEZ MENDEZ MADE SEVERAL TELEPHONE CALLS, AFTER WHICH HE ADVISED THAT A MEMBER OF THE CUBAN DELEGATION WOULD PICK THEM UP. OFFERS OF REFRESHMENTS WERE REFUSED.

AT 17:30 HOURS, MR. NESTOR GARCIA ITURBE, FIRST SECRETARY OF THE CUBAN MISSION, ARRIVED AT THE SIXTH PRECINCT AND DEMANDED AN EXPLANATION. NEITHER THE SIXTH SQUAD DETECTIVES NOR SUPERIOR OFFICER WERE ABLE TO SATISFY HIM BY EXPLANATION. AT ABOUT 17:50 HOURS, ALL THESE INDIVIDUALS LEFT THE SIXTH PRECINCT STATION HOUSE. MR MENDEZ MENDEZ AND MR. BERGUEZ FERRER WERE NOT BOOKED, NOR WERE ARREST REPORTS OR INDEX OF RECORDS PREPARED CONVERNING THEIR TEMPORARY DETENTION. UNQUOTE

2. LTR WILL BE CIRCULATED TO ALL MISSIONS AS DOCUMENT OF COMMITTEE ON RELATIONS WITH HOST COUNTRY. UN LEGAL UNCLASSIFIED

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OFFICE ALSO PLANS REQUEST OPI ISSUE PRESS RELEASE. MOYNIHAN

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